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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,519	01/24/2002	Robin Scott Gray		6037

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EXAMINER

MAIORINO, ROZ

ART UNIT PAPER NUMBER

3763

DATE MAILED: 01/12/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,519

Applicant(s)

GRAY, ROBIN SCOTT

Examiner

Roz Maiorino

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 8, 7, 13, 16, 21--32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 7, 8, 13, 16 and 21-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION**Election/Restrictions**

1. Applicant's election with traverse of species A in Paper No. 5 is acknowledged. The applicant has traversed the examiners grouping of the species, the applicant alleges figures 3-8b are one species and figures 9-13b are another species. However the examiner has used the applicants specification, drawings, as well as the brief description of drawing to structure the original species presented to the applicant and since the applicant himself refers to them as a different embodiment and adds certain limitation to certain embodiments the original grouping of the figures presented in Paper No.4 will remain.

The requirement is still deemed proper and is therefore made **FINAL**.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 7, 13, 16, 21, 23-24, 26-32 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent NO.4932947 to Cardwell.

Cardwell teaches a hollow syringe barrel having a syringe handle permanently attached to the syringe barrel, a plunger having a plunger shaft having an attached piston, a corrugated sheath enclosing a portion of the plunger shaft attached to a forward face surface of a plunger shaft handle member and a rearward face surface of the syringe barrel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim s 1, 8, 7, 13, 16, 21-24, 26-32 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent NO.4927416 to Tomkiel, and further in view of US Patent NO.5419773 to Rupp or US Patent NO.5219338 to Haworth.

Tomkiel teaches a hollow syringe barrel having a syringe handle permanently attached to the syringe barrel, a plunger having a plunger shaft, a corrugated sheath enclosing a portion of the plunger shaft attached to a forward face surface of a plunger shaft handle member and a rearward face surface of the syringe barrel.

Tomkiel does not teach a piston, however piston at the end of the plunger is very common and well known in the art as demonstrated by a few examples of Haworth and Rupp.

Therefore it would have been obvious to one having ordinarily skill in the art to add a piston to the end of the plunger because the piston allows for the liquid in the barrel to move accurately towards the distal end of the syringe.

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2. Claim 1, 8, 7, 13, 16, 21-24, 26-27, 29-32 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,817,047 to Osborn III et al.

Osborn teaches a syringe with a hollow syringe barrel, a plunger member with a plunger shaft and piston and a corrugated sheath 100 enclosing an encircling a portion of the plunger shaft. However Osborn does not teach the corrugated sheath attached to the rearward face surface of the syringe barrel handle member.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have attached the bellows to the rearward face surface of the syringe barrel handle member because Applicant has not disclosed that attached to the rearward face surface of the syringe barrel handle member proves an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the bellows attached to the shaft instead of attached to the rearward face surface of the syringe barrel handle member because they perform the same function.

Therefore it would have been an obvious matter of design choice to modify Osborn to obtain the invention as specified in the claims.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 8, 7, 13, 16, 21-24, 26-27, 29-32 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

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RM

B. L. Casler
BRAND L. CASLER
CHIEF OF BUREAU OF PATENT EXAMINER
FEDERAL BUREAU OF INVESTIGATION
FBI